

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DAINE ANTON CRAWLEY,

Case No.: 2:19-cv-2179-APG-BNW

4 Plaintiff

**Order Denying Motion for Entry of  
Clerk's Default**

5 v.

[ECF No. 33]

6 NAPHCARE, et al.,

7 Defendants

8  
9 Plaintiff Daine Anton Crawley moves for entry of default against defendant Officer B.  
10 Wolden. ECF No. 33. Default may be proper under Federal Rule of Civil Procedure 55(a) if a  
11 defendant "has failed to appear or otherwise defend" a case. But that presumes the defendant has  
12 been properly served with process. Here, there has been no proper service upon Wolden. In my  
13 July 21, 2021 order, I directed the clerk of court to send Wolden a copy of the Third Amended  
14 Complaint, my Order, and a request that he waive service. ECF No. 32 at 9-15. Wolden has not  
15 executed and returned the waiver of service. Therefore, he has not been properly served, so  
16 entry of default is premature and Crawley's motion for default must be denied. Because Wolden  
17 did not accept service, Crawley must now serve him.

18 I THEREFORE ORDER that plaintiff Daine Anton Crawley's motion for entry of clerk's  
19 default against Officer B. Wolden **(ECF No. 33) is denied without prejudice.**

20 I FURTHER ORDER the clerk of court to send the plaintiff one blank copy of form  
21 USM-285.

22

23

1 I FURTHER ORDER that the plaintiff shall have until November 15, 2021 to fill out and  
2 file the required USM-285 form. On the form, the plaintiff must fill in defendant B. Wolden's  
3 last-known address.

4 I FURTHER ORDER that the clerk of court is directed to issue a summons for defendant  
5 B. Wolden using the address the plaintiff provides on the filed USM-285 form.

6 I FURTHER ORDER that the clerk of court serve a copy of this order, the issued  
7 summons, the filed USM-285 form, and the operative complaint (ECF No. 28) on the U.S.  
8 Marshals Service.

9 I FURTHER ORDER that upon receipt of the USM-285 form, the U.S. Marshals Service  
10 shall, in accordance with Federal Rule of Civil Procedure 4(c)(3), attempt service on defendant  
11 B. Wolden.

12 DATED THIS 12th day of October, 2021.



UNITED STATES DISTRICT JUDGE